

Subject: [Fwd: Re: Depos of Nugget & Agents]

From: "Michael W. Sewright" <mws@bpbk.com>

Date: Tue, 14 Feb 2006 13:51:53 -0900

To: Tom Krider <Krider@OLES.com>, Herbert Viergutz <barmar@gci.net>, Steve Shamburek <shamburek@gci.net>

My email sent at 12:52 today repeated below should be corrected by substituting "dated January 18, 2006" for "for 2/16 and 2/17" at the end of the fourth sentence. Thanks. - Mike

----- Original Message -----

Subject: Re: Depos of Nugget & Agents

Date: Tue, 14 Feb 2006 12:52:00 -0900

From: Michael W. Sewright <mws@bpbk.com>

To: Tom Krider <Krider@OLES.com>

CC: Steve Shamburek <shamburek@gci.net>, Herbert Viergutz <barmar@gci.net>, Paul Stockler <paulstockler@aol.com>, Pat Stoll <cps@hyslaw.com>, John Smithson <jsmithson@nugget-ak.com>

References: <27EA372D6BF48F4E9236E3C31D6AF4F70A3D88@olesmsg1.oles.tld>

Tom,

I am unwilling to stipulate as you request to extend the exchange of expert reports due today. I think you give a weak excuse, on very short notice. I don't think it is the real reason. You first mentioned you wanted to take the deposition of Jack Goodwill 13 days ago, at the same time as depositions of Nugget personnel I had already let you know I wanted to set for 2/16 and 2/17 in accordance with the Court's Order compelling discovery for 2/16 and 2/17. I let you know February 6 Mr. Goodwill was leaving on a trip and would be gone until the week of March 13, and as it turned out we wouldn't have been able to take his depo anyway after the depositions I was going to take, and then postponed, because you advised you were unavailable the 17th. This is the first time you have suggested that your expert needs that deposition in order to be able to do an expert report -- the same day that report is due, and even if you had been able to take that deposition on the 16th or 17th it would have been after the due date for the report. I don't buy it.

- Mike

Tom Krider wrote:

Mike,

I have not heard any more about Randy's situation, so I don't know whether he is available on the 28th. However, I still have not been provided any information regarding the scope of the inquiry or any justification for reopening the deposition. Absent an agreement on the scope of the deposition before hand, I will have no choice but to move to quash, which will likely delay getting these depositions wrapped up. Please provide me with your basis for reopening Randolph's deposition as soon as possible, so that we can put this issue behind us.

Because of the delay in completing Goodwill's deposition, we are unable to complete our expert report today. Thus, unless the parties are willing to stipulate to an extension of the deadline for exchanging reports, I will be filing a motion seeking same from the court. We are of course willing to allow sufficient time to review the report and depose the expert after it is submitted, which would mean extending the discovery cutoff for that purposes only. Are the other parties willing to stipulate to an extension for expert reports until March 24 (assuming Goodwill is deposed on the 16th)? Please let me know at your earliest convenience. Thanks.

Tom

-----Original Message-----

From: Michael W. Sewright [mailto:mws@bpbk.com]

Sent: Tuesday, February 14, 2006 10:59 AM

To: Tom Krider

Cc: Steve Shamburek; Herbert Viergutz; Paul Stockler; Pat Stoll; John Smithson

Subject: Re: Depos of Nugget & Agents

Tom,

Thanks for the info. I'll notice him for 2/27, with an STD. Let him know. I'll notice Randy Randolph for 2/28, assuming he is available by then, and get you more info on that. Other counsel, please take note. - Mike

Tom Krider wrote:

Exhibit 2
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